

ORDINANCE 1522

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, RELATING TO TRANSPORTATION IMPACT FEES, AND SPECIFICALLY AMENDING NORTH BEND MUNICIPAL CODE SECTIONS 17.38.020, 17.38.030, AND 17.38.040; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of North Bend is interested in fostering and enabling small business investment in its downtown commercial area and promoting the development of certain uses through reductions of impact fees applied to certain uses, and changes of use, for buildings under 15,000 square feet as further described below; and

WHEREAS, consistent with Goal 2 of the Downtown Master Plan, the City wishes to inspire new business investment in the downtown commercial area in order to improve real estate values, occupancy levels, employment opportunities and consumer activity; and

WHEREAS, consistent with Goal 6 of the Downtown Master Plan, the City wishes to amend the North Bend Municipal Code to promote economic growth and new business, while maintaining North Bend's historic and small town character; and

WHEREAS, consistent with Goal 1 of the Economic Development Element of the Comprehensive Plan, the City wishes to advance the revitalization of the downtown commercial area as the civic and historic center of the community; and

WHEREAS, the City wishes to promote pedestrian-oriented businesses within the downtown commercial area such as restaurants, coffee shops and retail to further foster its identity and character as the cultural heart of the City and a core tourist/retail destination; and

WHEREAS, due to the potential mix of residential and commercial uses and proximity of the zone to tourists destination, such as Meadowbrook Farm and the Mt Si Trailhead, the City wishes to promote pedestrian-oriented commercial uses and redevelopment within the Neighborhood Businesses Zone; and

WHEREAS, consistent with the City's branding efforts focused on recreation and tourism, the City wishes to promote the development of outdoor recreation-related businesses;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. NBMC 17.38.020 (Definitions), Amended: North Bend Municipal Code Section 17.38.020 (Definitions) is hereby amended to read as follows:

The following words and terms shall have the following meanings for the purposes of this chapter, unless the context clearly requires otherwise. Terms otherwise not defined herein shall have the meaning defined in RCW 82.02.090, NBMC 1.04.010, Chapter 2.20 NBMC, NBMC 15.02.050, 17.30.040, 18.06.030, or 20.12.010 or, if not defined thereby, given their usual and customary meaning.

A. “Capital facilities plan” means the capital facilities plan element of a comprehensive plan adopted by the city of North Bend pursuant to Chapter 36.70A RCW, and such plan as amended.

B. “Department” means the department of public works.

C. “Development activity” means any construction, expansion, or change in the use of a building or structure that requires a building permit and that creates additional demand and need for public facilities.

D. “Development approval” means any written authorization from the city of North Bend which authorizes the commencement of a development activity.

E. “Director” means the director of the department of public works or the director’s designee.

F. “Encumbered” means to reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

G. “Feepayer” is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity which creates the demand for additional capital facilities, and which requires the issuance of a building permit. “Feepayer” includes an applicant for an impact fee credit.

H. “Gross floor area” means the total square footage of any building, structure, or use, including accessory uses.

I. “Impact fee account” or “account” means the account(s) established for each type of public facility for which impact fees are collected. The accounts shall be established pursuant to NBMC 17.38.080 and 17.38.090, and comply with the requirements of RCW 82.02.070.

J. “Independent fee calculation” means the transportation impact calculation and/or economic documentation prepared by a feepayer, to support the assessment of an impact fee other than by the use of the rates listed in NBMC 17.38.120, or the calculations prepared by the director where none of the fee categories or fee amounts in NBMC 17.38.120 accurately describe or capture the impacts of the new development on public facilities.

K. “Interest” means the average interest rate earned in the last fiscal year by the city of North Bend.

L. “ITE Land Use Code” means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the Seventh Edition of Trip Generation.

M. “Occupancy permit” means the permit issued by the city of North Bend where a development activity results in a change in use of the pre-existing structure, or the creation of a new use where none previously existed.

N. “Project improvements” means site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan adopted by the council shall be considered a project improvement.

O. “Rate study” means the “Transportation Impact Fee Rate Calculations for City of North Bend,” prepared by Henderson, Young and Company dated October 15, 2013.

P. “Residential” or “residential development” means all types of construction intended for human habitation. This

shall include, but is not limited to, single-family, duplex, triplex, and other multifamily development.

Q. “Restaurant” means any fixed restaurant; non drive thru coffee shop; cafeteria; short-order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; wine tasting room; distillery; cocktail lounge or other similar place in which food or drink is prepared for sale or for service on the premises or elsewhere.

R. “Retail” means a commercial business which provides goods or merchandise directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Retail does not mean a commercial business that provides other services to the consumer and retail is an accessory use of the business.

S. “Significant past tax payment” means taxes exceeding five percent of the amount of the impact fee, and which were paid prior to the date the impact fee is assessed and were earmarked or proratable to the same system improvements for which the impact fee is assessed.

T. “Square footage” means the square footage of the gross floor area of the development.

U. “Street” and/or “road” means a public right-of-way which enables motor vehicles, transit vehicles, bicycles and/or pedestrians to travel between destinations, and affords the principal means of access to abutting property, including a public avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare, except an alley.

V. “System improvements” means improvements to street and/or transportation public facilities that are included in the city of North Bend’s capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

Section 2. NBMC 17.38.030 Assessment of Impact Fees, Amended: North Bend Municipal Code Section 17.38.030 (Assessment of impact fees) is hereby amended to read as follows:

A. Unless exempted pursuant to NBMC 17.38.040, an applicant seeking development approval from the city for any development activity within the city shall pay, and the city shall collect prior to building permit issuance, impact fees calculated by the director according to the rates set forth in NBMC 17.38.120 and the taxes, rates and fees schedule set forth in Ordinance No. 1515 as it may be subsequently amended from time to time. Development activity subject to the impact fees assessed herein shall include, but is not limited to, the development of residential, commercial, retail, office, and industrial land, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in use that creates a demand for additional public facilities.

B. For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee shall be the applicable impact fee for the land use category of the new use, less any impact fee previously paid for the land use category of the prior use. If no impact fee was paid for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use.

C. For mixed-use developments, impact fees shall be imposed at the applicable rate set forth in NBMC 17.38.120 for each separate type of land use contained in the mixed-use development. For cottage housing, impact fees shall be imposed at the applicable rate set forth in NBMC 17.38.120 for condominiums.

D. Impact fees shall be paid at the rate in effect at the time the building permit is issued by the city.

E. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to NBMC 17.38.050 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to NBMC 17.38.050 setting forth the dollar amount of the credit awarded.

F. *Repealed by Ord. 1485.*

G. The department shall not issue the required building permit or occupancy permit unless and until the impact fees set forth in NBMC 17.38.120 have been paid in the amount that they exceed exemptions or credits provided pursuant to NBMC 17.38.040 or 17.38.050.

H. The service area for impact fees shall be a single citywide service area.

Section 3. NBMC 17.38.040, Amended: North Bend Municipal Code Section 17.38.040 (Exemptions) is hereby amended to read as follows:

A. The following development activity shall be fully or partially exempt from the requirement to pay impact fees as described below:

1. Alteration of an existing residential structure that does not expand the usable space or add any residential units;
2. Miscellaneous accessory use improvements, including, but not limited to, fences, walls, swimming pools, and signs;
3. Demolition or moving of a structure;
4. Expansion of an existing structure that results in the addition of 100 square feet or less of gross floor area;
5. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet;
6. Any development by the city of North Bend;
7. Any change of use of an existing building or tenant space 15,000 square feet or less.

8. A reduction of 75% of the total traffic impact fee assessed for any restaurant (non-drive thru) or retail use in the Downtown Commercial zone; and
9. A reduction of 50% of the total impact fee assessed for any allowed commercial use within Downtown Commercial and Neighborhood Business zones,

B. The director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in NBMC 17.38.070.

Section 4. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF APRIL, 2014.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Kenneth G. Hearing, Mayor

Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

Published: April 23, 2014

Effective: April 28, 2014

Susie Oppedal, City Clerk